IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.10.2005

C O R A M

The Honourable Mr. Justice P. SATHASIVAM
and
The Honourable Mr. Justice S.K. KRISHNAN

Writ Petition No.35359 of 2002

District Collector,
Tiruvallur,
Tiruvallur District. .. Petitioner

Versus

1. P. Rani Ammal

2. The Registrar,
Tamil Nadu Administrative Tribunal,
Chennai-104. .. Respondents

- - - - -

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the second respondent made in O.A. No.7303 of 2001 dated 10.7.2002 and quash the same.

- - - - -

For Petitioner : Mr. E. Sampath Kumar,
Government Advocate.

For Respondent-1 : Mr. P. Jayaraman,
Senior Counsel for
Mr. G. Thangavel.

- - - - -

O R D E R

DELIVERED BY
P. SATHASIVAM, J.

Aggrieved by the order of the Tamil Nadu Administrative Tribunal, Chennai dated 10.7.2002 made in O.A. No.7303 of 2001, the District Collector, Thiruvallur has filed above Writ Petition. According to the petitioner/District Collector, since there were lot of complaints regarding the maintenance of Old Age Pension, Accident

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Relief Scheme and Distress Relief Scheme in the Old Age Pension Branch of the Taluk Office at Ambattur, Thiruvallur District, a surprise check was made in the Old Age Pension Branch in the Taluk Office, Ambattur and it was brought to the notice that none of the registers prescribed for Old Age Pension had been maintained and several other lapses, including misappropriation of money relating to returned Money Orders, were also noticed. The Tashildar, Ambattur submitted a report about the prevailing condition of the Old Age Pension Branch in the Taluk Office at Ambattur. The first respondent herein, who was working as Assistant in the Old Age Pension Branch during the period from 14.5.1997 to 3.3.1999, was found responsible for such lapses and hence, disciplinary action under Rule 17(b) of the Tamil Nadu Civil Services (D & A) Rules was contemplated against her. A charge memo was served on the first respondent by the District Revenue Officer, Thiruvallur dated 31.10.1999. The first respondent was directed to submit her explanation in pursuance of the aforesaid charge memo. The first respondent offered her explanation on 29.12.1999. The Revenue Divisional Officer, Ponneri was appointed as the Enquiry Officer to enquire into the charges as laid down under the Tamil Nadu Civil Services (D & A) Rules. The Enquiry Officer submitted a report holding all the charges as proved. The report of the Enquiry Officer was duly communicated to the first respondent on 25.8.2000 and she has also acknowledged it. The first respondent, in her letter dated 26.9.2000, has stated that the explanation already offered by her may be taken as final and she requested passing of a final order. Subsequently, she was directed to appear for a personal enquiry. The first respondent appeared before the District Collector, Thiruvallur for personal hearing; she admitted her guilt in her letter dated 9.11.2000 and requested to exonerate her from the charges. Final orders were passed by the Petitioner/District Collector on 30.9.2001, downgrading her from the rank of Assistant to Junior Assistant for a period of two years. Aggrieved by the said order, the first respondent approached the Tamil Nadu Administrative Tribunal in O.A. No.7303 of 2001 to quash the order of punishment issued against her. The Tribunal, by the impugned order dated 10.7.2002, set aside the order of punishment. Aggrieved by the order of the Tribunal, the petitioner/District Collector has filed the present writ petition.

WEB COPY

2. Heard the learned Government Advocate for the petitioner and the learned Senior Counsel for the first respondent.

3. After taking us through the impugned order passed by the Tribunal and all other connected materials, the learned Government Advocate would submit that the order of the Tribunal setting aside the punishment imposed on the applicant/first respondent only on the ground that she was not furnished with the enquiry report and that she was not afforded an opportunity to submit her explanation to the

https://hcservices.ecourts.gov.in/hcservices/

enquiry report cannot be sustained since the applicant/first respondent was furnished with a copy of the enquiry report and she was asked to submit her explanation, if any. Learned Government Advocate also brought to our notice that on receipt of the copy of the enquiry report, the applicant/first respondent sent a reply to the District Revenue Officer stating that she had no further explanation to offer and requested that her earlier explanation may be considered and orders passed at an early date. According to the learned Government Advocate, in the light of the fact that the applicant/first respondent was furnished with a copy of the enquiry report and no fresh explanation was offered thereon, the contrary conclusion arrived at by the Tribunal cannot be sustained. In support of the above contention, the learned Government Advocate has brought to our notice a letter from the office of the District Collector, Thiruvallur in Na.Ka.No.20332/99/A2 dated 25.8.2000 which reads as under :

"ந.க.20332/99/அ2/நாள் 25.8.2000 மாவட்ட ஆட்சியர் அலுவலகம்,
திருவள்ளூர்.

குறிப்பாணை

பொருள் : பொதுப்பணி – தமிழ்நாடு அமைச்சுப்பணி – அம்பத்தூர் வட்ட ஆட்சியர் அலுவலகம், ராணியம்மாள் (திருமதி) ப்பி. – முன்னாள் உதவியாளர் – தமிழ்நாடு குடிமைப்பணி (ஒழுங்கு மற்றும் மேல்முறையீடு) விதி 17(ஆ)ன் கீழ் குற்றப்பத்திரிகை ஏற்படுத்தியது – விசாரணை அலுவலர் அறிக்கை வரப்பெற்றது – தொடர்பாக.

பார்வை : வருவாய் கோட்ட அலுவலர், பொன்னேரி அவர்களின் கடிதம் எண். ந.க.அ1/620/2000/நாள் 20.7.2000.

– – – – –

பார்வையில் கண்ட கடிதத்துடன் வரப்பெற்ற விசாரணை அலுவலரின் அறிக்கை இத்துடன் இணைத்தனுப்பப்படுகிறது. இவ்வறிக்கையின் பேரில் விளக்கம் ஏதேனும் அளிக்க இருப்பின் அதனை இவ்வலுவலகத்திற்கு உடன் அனுப்பி வைக்குமாறு கேட்டுக் கொள்ளப்படுகிறார்.

ஒம்/– ட்டி.கே. பொன்னம்பலம்,
மாவட்ட வருவாய் அலுவலருக்காக.

/உத்திரவின்படி/

அலுவலக மேலாளர் (பொது)"

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

On receipt of the above letter, the applicant/first respondent sent the following reply to the District Revenue Officer, Thiruvallur :

"பார்வை 2ல் கண்ட கடிதத்திற்கு தங்களின் மேலான கவனத்தை ஈர்க்கிறேன்.

விசாரனை அலுவலர் அறிக்கையின் மேல், மேற்கொண்டு விளக்கம் தர சமாதானம் ஏதுமில்லை. பார்வை 1ல் நான் தந்த எனது சமாதானத்தையே ஆதாரமாகக் கொண்டு மேற்கண்ட பொருளின்மீது தங்களது முடிவான உத்திரவினை வழங்கும்படி பணிவுடன் கேட்டுக் கொள்கிறேன்.

வணக்கம்.

இப்படிக்கு,
தங்கள் உண்மையுள்ள,
ஓம்/ப்பி. ராணியம்மாள்."

4. The above mentioned communications amply show that after the enquiry, a copy of the enquiry report was furnished to the applicant/first respondent and she was asked to submit her further explanation, if any. The proceedings also show that the applicant/first respondent had not furnished an additional explanation based on the report of the enquiry officer. The above mentioned proceedings are available at pages 15 and 16 of the typed set filed along with the writ petition. The above factual details were furnished in the affidavit filed in support of the writ petition. On going through the same, we are of the view that the Tribunal has committed an error in holding that the applicant/first respondent was not furnished with a copy of the enquiry report and that she was not afforded an opportunity to submit her explanation to the same. Only on the said misconception, the Tribunal has set aside the order of punishment and allowed the Original Application. For the reasons mentioned above, the said conclusion and the ultimate direction cannot be sustained.

5. Inasmuch as the Tamil Nadu Administrative Tribunal is not functional as on date, we intend to go into the merits of the order passed by the District Collector dated 30.9.2001.

6. We have gone through the five charges levelled against the first respondent, her explanation to the charges, the enquiry proceedings and the ultimate order passed by the District Collector imposing the punishment, viz. reverting her to the post of Junior Assistant for a period of two years with a monetory loss thereon. Mr. Jayaraman, learned senior counsel appearing for the first respondent submitted that consequent to the order passed by the District Collector, the first respondent was reverted to the post of Junior Assistant and the two year period expired even on 8.11.2003 and hence, according to the learned senior counsel, even if the order of the Tribunal is set aside, there is no need for the first

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

respondent to undergo the punishment as imposed by the District Collector. In support of the above contention, the first respondent has also filed W.P.M.P. No.1954 of 2004 seeking a direction to the District Collector, Thiruvallur to give posting order posting orders to the first respondent as Assistant with effect from 9.11.2003. On going through the assertion made in the affidavit filed in support of the said application and in the light of the statement made by the learned senior counsel, we intend to issue directions to the District Collector, Thiruvallur as prayed for by the first respondent in the said W.P.M.P.

7. In the light of what is stated above,

(a) the order of the Tamil Nadu Administrative Tribunal dated 10.7.2002 made in O.A. No.7303 of 2001 is hereby set aside;

(b) The order of the District Collector, Thiruvallur dated 30.9.2001 is hereby confirmed;

(c) the District Collector, Thiruvallur is hereby directed to give posting orders to the first respondent, viz. P. Raniammal as Assistant with effect from 9.11.2003, if she is otherwise qualified, within a period of four weeks from the date of receipt of a copy of this order.

8. The writ petition is allowed with the above directions. No costs.

17th October, 2005.

ab

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The District Collector,
   Tiruvallur,
   Tiruvallur District.

2. The Registrar,
   Tamil Nadu Administrative Tribunal,
   Chennai-104.

1 cc to Mr.G.Thangavel, Advocate, SR.41995
1 cc to the Government Pleader, SR.41979
vc (co)
dv/20.10.05 W.P.No.35359 of 2002

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/